

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALEX PROIMOS,

Plaintiff,

- against -

METROMILE INSURANCE SERVICES LLC

Defendant.

Docket No. 1:20-cv-4903

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Alex Proimos (“Proimos” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Metromile Insurance Services LLC (“Metromile Insurance” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of a doctor holding a stethoscope, owned and registered by Proimos, a professional photographer. Accordingly, Proimos seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Proimos is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 14 Lancaster Avenue, Sydney, 2119 Australia.

6. Upon information and belief, Metromile Insurance is a limited liability company that resides and/or transacts business in New York. Upon information and belief Metromile is registered with the New York State Department of Corporation to do business in New York. At all times material hereto, Metromile Insurance has owned and operated a website at the URL: www.MetroMile.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Proimos photographed a doctor holding a stethoscope (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Proimos is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-183-714.

B. Defendant’s Infringing Activities

10. Metromile Insurance ran an article on the Website entitled *Personal Injury Protection 101*. A screenshot of the Photograph on the Website is attached hereto as Exhibit B.

11. Metromile Insurance did not license the Photograph from Plaintiff for its article, nor did Metromile Insurance have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Metromile Insurance infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Metromile Insurance is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Metromile Insurance have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Metromile Insurance be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
June 25, 2020

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